

# **EXHIBIT 86**

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1 IN THE UNITED STATES DISTRICT COURT.

2 FOR THE SOUTHERN DISTRICT OF NEW YORK

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4 NIKE, INC.,

5 Plaintiff,

6 vs.

Case No. 22-CV-983 (VEC)

7 STOCKX, LLC,

8 Defendant.

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13 The Videotaped Deposition of JACOB FENTON,

14 Taken at 28 West Adams Avenue, Suite 1500,

15 Detroit, Michigan,

16 Commencing at 8:48 a.m.,

17 Friday, December 2, 2022,

18 Before Stenographic Shorthand Reporter,

19 Lori Ann Baldwin, CSR-5207, RPR, CRR.

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1 APPEARANCES :

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3 TAMAR Y. DUVDEVANI

4 GABRIELLE VELKES

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11 Appear ing on behalf of Plaintiff.

12

13 CHRISTOPHER S. FORD

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19 Appear ing on behalf of Defendant.

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25 APPEARANCES (Continued) . . .

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- 1 Q. How did you prepare for today's deposition?
- 2 A. I met with our counsel twice.
- 3 Q. And when were those meetings?
- 4 A. We met on Tuesday of this week, and we met yesterday.
- 5 Q. For approximately how long?
- 6 A. I think on Tuesday we met for about 45 minutes or an
- 7 hour, and yesterday we met for about six or seven
- 8 hours.
- 9 Q. What is your title at StockX?
- 10 A. My pres -- my title is Vice President of Customer
- 11 Experience and Insights.
- 12 Q. How long have you held the title of Vice President of
- 13 Customer Experience and Insights?
- 14 A. About nearly three years.
- 15 Q. Okay. So, in terms of calendar years, can you tell me
- 16 what year?
- 17 A. Yeah. I took that title, I believe, in January of
- 18 2020.
- 19 Q. And prior to January of 2020, did you work at StockX?
- 20 A. I did.
- 21 Q. And what was your title?
- 22 A. Vice President of Business Operations.
- 23 Q. And how long were you the Vice President of Business
- 24 Operations for StockX?
- 25 A. About 15 months.

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1 A. I do.

2 Q. How is that 99.95 percent rate calculated?

3 A. To the best of my knowledge, I believe it's calculated  
4 as a percentage of customers that reach out to StockX  
5 claiming that they have received something that is not  
6 in line with their -- with what they expected to get,  
7 and that we were essentially wrong, and we fixed it  
8 for them.

9 Q. When you say that you "fixed it for them," what does  
10 that mean?

11 A. If a customer is able to demonstrate that they've  
12 received something that is not what they expected and  
13 that they haven't worn it, you know, it has our tag on  
14 it, we make it right for them.

15 Q. How do you make it right?

16 A. Either through a refund or by helping them procure  
17 another pair.

18 Q. Does that include a customer complaining about  
19 purchasing a counterfeit or fake product?

20 A. It does, yes.

21 Q. How would a customer know if they purchased a  
22 counterfeit or fake product?

23 MS. BANNIGAN: Objection to form.

24 A. Depends on the customer. A lot of our customers are  
25 very savvy and, you know, they might know a towel (ph)

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1 sneakers?

2 A. I don't know definitively, but I -- it's a safe  
3 assumption to say yes.

4 Q. Okay. How many fake or counterfeit products did not  
5 get caught by StockX authenticators?

6 MS. BANNIGAN: Objection to form.

7 A. I actually don't know the answer to that. I know that  
8 the sum of all of the ones that did not get caught was  
9 that .04, right, the difference between a hundred  
10 percent and the .996.

11 BY MS. DUVDEVANI:

12 Q. How do you know that?

13 A. We have a 99.6 accuracy rate, only .04 percent of the  
14 products we pass are later determined to have been  
15 missed -- passed an error, last 12 months.

16 Q. Fair to say that's only based on products that make it  
17 back to StockX after a customer complains, correct?

18 A. That's correct.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1 A. I'm assuming the Sail Off-White sneaker.

2 Q. Do you know what brand that shoe is?

3 A. The Nike.

4 Q. And what about the Mocha?

5 A. Same.

6 Q. Nike?

7 A. Yes.

8 Q. Okay. Going back to the first page of Exhibit 23, you  
9 write a note that starts with the word "sure." Do you  
10 see that?

11 A. I do.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18 MS. BANNIGAN: Objection. I think you  
19 missed some words in that.

20 MS. DUVDEVANI: The document speaks for  
21 itself.

22 BY MS. DUVDEVANI:

23 Q. So don't have to take my word for it, Mr. Fenton, you  
24 can read it yourself.

[REDACTED]

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7 Q. What do you mean by "proprietary?"

8 A. It's our own work product.